

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

BEATRICE DAVIS,

Plaintiff,

v.

SOCIAL SECURITY ADMINISTRATION,

Defendant.

Case No. 10-cv-428-JPG

MEMORANDUM AND ORDER

This matter comes before the Court on plaintiff Beatrice Davis' motion for leave to proceed *in forma pauperis* (Doc. 2) in this action challenging a decision of the Commissioner of Social Security. The Court noted in a prior order that a federal court may permit an indigent party to proceed without pre-payment of fees. 28 U.S.C. § 1915(a)(1). Nevertheless, a court can deny a qualified plaintiff leave to file *in forma pauperis* or can dismiss a case if the action is clearly frivolous or malicious or fails to state a claim. 28 U.S.C. § 1915(e)(2)(B)(i) & (ii). The test for determining if an action is frivolous or without merit is whether the plaintiff can make a rational argument on the law or facts in support of the claim. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *Corgain v. Miller*, 708 F.2d 1241, 1247 (7th Cir. 1983). An action fails to state a claim if it does not plead "enough facts to state a claim to relief that is plausible on its face." *Bell Atlantic Corp. v. Twombly*, 127 S. Ct. 1955, 1974 (2007). When assessing a motion to proceed *in forma pauperis*, a district court should inquire into the merits of the plaintiff's claims, and if the court finds them to be frivolous or meritless, it should deny leave to proceed *in forma pauperis*. *Lucien v. Roegner*, 682 F.2d 625, 626 (7th Cir. 1982).

The Court found that Davis was indigent but that it was unable to determine if her claim was frivolous or failed to state a claim because her complaint was missing several key pieces of

information, namely, the county in which she resides, the name of the claimant, the type of benefits sought, and the last four digits of her social security number. The Court allowed Davis an opportunity to amend her complaint to correct its shortcomings on or before July 9, 2010, and sent her the correct forms for doing so. Davis did not file an amended complaint.

Without the critical information that Davis omitted from her complaint, Davis' complaint does not state a claim on which relief may be granted. Therefore, the Court **DENIES** Davis' motion for leave to proceed *in forma pauperis* (Doc. 2), **DISMISSES** this case **without prejudice** pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and **DIRECTS** the Clerk of Court to enter judgment accordingly.

IT IS SO ORDERED.

DATED: July 27, 2010

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE